IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.552 OF 2006

M/s.Vaibhav Laxmi Impex (P) Ltd. .. Petitioner

V/s

Commissioner of Customs & Others .. Respondents

Shri.Ashok Singh i/b. ACC Legal Consultants for the Petitioner.

Shri.Rajiv Chavan with Shri.Y.S.Bhat for the Respondents.

CORAM : DR.S.RADHAKRISHNAN &
J.P.DEVADHAR, JJ.

DATE : 15TH FEBRUARY, 2006.

P.C.:

1. Heard the learned Counsel for the Petitioner and the learned Counsel for the Respondents.

2. Rule. Rule is made returnable forthwith. The learned Counsel for the Respondents waives service. By consent taken up for final hearing. By this petition, the Petitioner is challenging the order of CESTAT directing the Petitioner to make pre-deposit of Rs.50,00,000/- with regard to the appeal pending before CESTAT.

3. The main contention of the learned Counsel for the Petitioner is that there was a High Seas Sale and

the Petitioner had not filed any Bill of Entry and there is no question of mis-declaration by the Petitioner and the Bill of Entry was filed by the Purchaser of container on High Seas Sale basis. We have also perused the Order in Original. In paragraph 66 there is a clear finding of a fact which reads as under :-

> "The fact remains that the title of the goods contained in the goods contained in the two containers purchased on high seas sales basis by Noticee No.1 is not relinquished by them although they had cancelled the Bill of Entry filed and the high seas sales agreement."

4. In view of the aforesaid facts and circumstances of the case we quash and setaside the order dated 14th December, 2005 passed by CESTAT directing the pre-deposit. We direct the CESTAT to hear the appeal without any pre-deposit as expeditiously as possible.

(DR.S.RADHAKRISHNAN,J.)

(J.P.DEVADHAR,J.)